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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re A.A., A Person Coming Under the  
Juvenile Court Law.

THE PEOPLE OF THE STATE OF  
CALIFORNIA,

Plaintiff and Respondent,

v.

A.A.,

Defendant and Appellant.

B230546

(Los Angeles County  
Super. Ct. No. FJ47283)

APPEAL from an order of the Superior Court of Los Angeles County.

Robin Miller Sloan, Judge. Affirmed.

Adrian K. Panton, under appointment by the Court of Appeal, for Defendant  
and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant  
Attorney General, Susan Sullivan Pithey and David Zarmi, Deputy Attorneys  
General, for Plaintiff and Respondent.

After the juvenile court sustained a petition alleging that appellant A.A. engaged in an assault likely to produce great bodily injury, the court ordered appellant to pay \$60.50 in restitution to the state Restitution Fund. Appellant contends the order must be reversed because the court did not consider a co-offender's liability in determining the amount of the award. We affirm.

### **BACKGROUND**

On May 25, 2010, a petition was filed under Welfare and Institutions Code section 602 charging appellant, a minor born in 1993, with assault by means likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(1)).<sup>1</sup> Appellant denied the allegation.

At the adjudication hearing, E.M. testified as follows: In January 2010, she attended the same high school as appellant and Briana S. On several occasions, appellant pushed E. into lockers at school in an apparent effort to provoke a fight. On January 15, 2010, as E. walked to a bus stop, she noticed appellant, Briana, and approximately nine other girls on the other side of the street. Briana separated from the group and followed E., asserting that E. was a "snitch." The rest of the group, including appellant, trailed Briana.

Briana demanded that E. stop and talk, but she did not do so. As E. walked, she tried to call her sister by cell phone for help. Briana then ran up to E. and punched her. Appellant and the other girls soon arrived and gathered around. Briana pulled E.'s head down by the hair and repeatedly hit her. According to E., appellant also appeared to punch her, although she was unable to see appellant because her head had been pulled down. E. believed that appellant hit her at least

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<sup>1</sup> All further statutory citations are to the Welfare and Institutions Code.

once on the back of her head. When E.'s cell phone fell from her hand, appellant and Briana stomped on it. After approximately ten punches, appellant told Briana to stop, and the girls ran away, including appellant and Briana. E. suffered a cut above one eye, an injured lip, and numerous scratches.

Los Angeles Police Department Detective Maggie Sherman testified that after the incident, E. said that appellant and Brianna had repeatedly challenged her to a fight at school. E. further stated that on January 15, 2010, Briana followed her and initiated an argument that became a fight. After Briana began to punch her, appellant hit her on the back of the head with a closed fist.

On January 25, 2011, following the presentation of evidence at the adjudication hearing, the juvenile court sustained the petition and declared the offense to be a misdemeanor. The court placed appellant on probation for six months and imposed a maximum term of confinement of one year. In addition, the court ordered appellant to pay restitution to the victim in an amount to be determined by her probation officer, and to pay \$60.50 to the Restitution Fund. This appeal followed.

## **DISCUSSION**

Appellant contends the court erred in determining the amount of the fine that she was ordered to pay to the Restitution Fund. As explained below, she has failed to establish error.

When, as here, a minor is “found to be a person described in [s]ection 602,” subdivision (a) of section 730.6 authorizes the juvenile court to order two types of restitution (§ 730.6, subds. (a)(2)(A), (a)(2)(B)). The court may order a restitution fine (§ 730.6, subds. (b) – (e)) or victim restitution (§ 730.6, subd (h)).

Subdivision (b) of section 730.6 provides that when a minor is found to have committed a misdemeanor, the juvenile court “shall” impose a fine not exceeding \$100 (§ 730.6, subd. (b)(2)). The amount of the fine is consigned to the discretion of the court, which is not required to conduct a hearing on the fine or to make express findings “as to the factors bearing on the amount of the fine.” (§ 730.6, subds. (b)(2), (e).) The fine is paid to the Restitution Fund, and must be imposed “regardless of the minor’s inability to pay.” (§ 730.6, subd. (c).) Nonetheless, subdivision (d) of section 730.6 provides that the court, in determining the amount of the fine, may consider the minor’s ability to pay, as well as “the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the minor as a result of the offense, and the extent to which others suffered losses as a result of the offense.” (§ 730.6, subd. (d)(1).) The minor has the burden of showing his or her inability to pay. (§ 730.6, subd. (d)(2).)

Subdivision (h) of section 730.6 authorizes the court to order restitution to victims in an “amount sufficient to fully reimburse the . . . victims for all determined economic losses incurred as the result of the minor’s conduct for which the minor was found to be a person described in [s]ection 602.” Losses include the value of stolen or damaged property, medical expenses, and lost wages and profits. (§ 730.6, subds. (h)(1) - (h)(4).) The minor’s inability to pay is neither “a compelling or extraordinary reason” to deny victim restitution, nor a factor in determining the amount of restitution. (§ 730.6, subd. (h).) The minor has the right to a hearing on the amount of victim restitution. (*Ibid.*) Under subdivision (h), the court must “identify on the court order[] any cooffenders who are jointly and severally liable for victim restitution,” whenever this is “feasible.” (§ 730.6, subd. (h).)

Although the order directing appellant to pay \$60.50 to the Restitution Fund does not identify the statutory basis for the payment, appellant does not dispute that the order reflects a mandatory restitution fine pursuant to section 730.6, subdivision (b). Appellant contends only that the order is defective because the juvenile court, in determining the amount of restitution, did not consider Briana's role as E.'s primary assailant.

To the extent appellant contends that the juvenile court, in setting the amount of the fine, did not adequately consider Briana's conduct in assessing "the circumstances of [the assault's] commission" (§ 730.6, subd. (d)(1)), appellant has forfeited her contention, as she raised no objection when the fine was imposed. (*People v. Gamache* (2010) 48 Cal.4th 347, 409 [defendant's failure to object forfeited contention that trial court, in imposing restitution fine, did not give due attention to his inability to pay].) However, to the extent appellant contends the court exceeded its statutory authority in imposing the fine, her failure to object does not work a forfeiture. (*In re Alexander A.* (2011) 192 Cal.App.4th 847, 859; *In re Paul R.* (1996) 42 Cal.App.4th 1582, 1590.) On this matter, appellant appears to argue that notwithstanding subdivision (e) of section 730.6, which authorizes the court to impose the fine without making "[e]xpress findings . . . as to the factors bearing on the amount of the fine," subdivision (h) of section 730.6 obliged the court to make express determinations regarding Briana's conduct as a co-offender. She is mistaken.

In interpreting a statute, we seek the Legislature's intent, looking first to the statute's language, viewed in context. (*In re Alexander A., supra*, 192 Cal.App.4th at p. 856, fn. 7.) As explained above, the two types of restitution established in section 730.6 are subject to distinct procedures and requirements. Nothing in subdivision (h) of the statute, which governs direct restitution to victims, suggests

that a juvenile court, in imposing a restitution fine under subdivisions (b) through (e), is required to make express determinations regarding a co-offender's conduct.

Appellant maintains that the restitution fine must be expressly tailored to her share of liability for the assault on E. because the fine's purpose is to benefit "the crime victim." This contention rests on a misapprehension regarding the statutes governing restitution. Appellant's fine is to be paid to the Restitution Fund, which "operates as a kind of safety net for victims of crime who suffer losses for which there is no other public or private source of compensation." (*County of Alameda v. State Bd. of Control* (1993) 14 Cal.App.4th 1096, 1107.) Under the statutory scheme, "[t]he fund is intended to be the source of last resort for victims of crime." (*Ibid.*) As a restitution fine supports this safety net for victims in general, the statutory scheme discloses no legislative intent to require a court to state that the amount of the fine reflects a co-offender's share of liability for the specific crime in question. In sum, appellant has failed to show error regarding the restitution order.

**DISPOSITION**

The judgment is affirmed.

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MANELLA, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.